UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

v. 07 Crim. 229 (RPP)

CHRISTOPHER WILLIAMS

Defendants.

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MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT
CHRISTOPHER WILLIAMS' MOTION TO WITHDRAW HIS PLEA OF GUILTY

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This memorandum of law is submitted in support of the motion of defendant Christopher Williams ("Williams") to be permitted to withdraw his previously entered plea of guilty. For the reasons discussed below, it is respectfully submitted that such relief is fair and just under the circumstances of this case and, accordingly, is warranted pursuant to Federal Rule of Criminal Procedure 11(d)(2)(B).

PROCEDURAL HISTORY

On March 26, 2007, Williams pleaded guilty before this Court to a single count information charging conspiracy to commit bank fraud (18 U.S.C. §371). Williams' guilty plea was entered pursuant to a cooperation agreement with the United States Attorney for the Southern District of New York. Williams, a former employee of Collins & Aikman Corporation, an automobile parts supplier, agreed to cooperate in the government's prosecution of other individuals associated with Collins & Aikman, including former CEO David Stockman.

Shortly after Williams' plea of guilty, the government filed an indictment against Mr. Stockman and three other former executives of Collins & Aikman in the matter styled *United States v. Stockman, et al.*, 07 Cr. 220. The case was assigned to the Honorable Barbara S. Jones. As the government states in its April 29, 2009 letter to this Court (attached as Exhibit A to the accompanying Affirmation of James A. Mitchell, Esq. dated May 6, 2009), the charges in the *Stockman* case arose from "substantially the same events and circumstances" underlying the information to which Williams previously pleaded guilty. Given his status as a cooperating witness, Williams' sentencing was left unscheduled pending completion of his assistance in the prosecution and potential trial of the matter before Judge Jones.

However, on January 9, 2009, upon the government's application, all of the charges in *United v. Stockman, et al.* were dismissed. Accordingly, the government, on April

29, 2009, sent a letter advising this Court that "the Government will not oppose [a motion to withdraw Williams' plea of guilty] as we believe that under the limited facts of this case a fair and just reason exists for such withdrawal." Specifically, the government stated that "after a renewed assessment of the evidence against [Williams], including evidence and information acquired after the entry of the guilty plea, it has been concluded that further criminal prosecution would be inequitable and not in the interests of justice." Mitchell Affirmation, Exh. A.

LEGAL ANALYSIS

A defendant may be permitted to withdraw a guilty plea prior to sentencing if "the defendant can show a fair and just reason for requesting the withdrawal." Fed. R. Crim. P. 11(d)(2)(B). A motion to withdraw a guilty plea is within the sound discretion of the court. *United States v. Torres*, 129 F.3d 710, 715 (2d Cir. 1997). Courts have found "that the reason does not have to be compelling, and some courts have said that the standard is a relatively lenient one." 1A Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 181 (4th ed. 2008); *see also United States v. Rosen*, 409 F.3d 535, 546 (2d Cir. 2005) (although defendant bears the burden of satisfying the court as to valid grounds for withdrawal, "motions to withdraw prior to sentence should be liberally granted").

The circumstances in support of allowing withdrawal of Williams' guilty plea are compelling. First is the government's determination to dismiss all of the charges against each of the defendants indicted in *United States v. Stockman, et al.* As noted above, that case was based on the very same circumstances underlying Williams' previously entered guilty plea. Indeed, Williams -- a former Collin & Aikman employee -- pleaded guilty pursuant to a cooperation agreement relating to the case and was slated to be a witness should there have been a trial of his former CEO and three other executives. Under these circumstances, continuing the criminal prosecution of Williams would, we submit, be profoundly unfair.

Moreover, the government -- as stated in its letter -- renewed its assessment of the evidence and information in Williams' case and concluded that a prosecution of Williams would "be inequitable and not in the interests of justice." Mitchell Affirmation, Exh. A. In and of itself, the government's position should, we submit, be sufficient to afford Williams the opportunity to withdraw his guilty plea. *See Nagelberg v. United States*, 377 U.S. 266, 266-67 (1964) (vacating lower court's denial of motion to withdraw plea in light of government's consent to the motion); *United States v. Santos*, 278 F. Supp. 2d 143, 145-46 (D. P.R. 2003).

Finally, there has been no undue delay in Williams' submission of this motion. Although he entered his guilty plea in March 2007, it was only recently announced (in January 2009) that the charges in the *Stockman* case were being dismissed. Since immediately after disclosure of the dismissal, Williams' counsel has been in discussion with the government regarding the disposition of the Williams' case, discussions that only last week culminated in the government's letter to this Court advising that it would not oppose this motion. Similarly, there is no prejudice to the government here as it has already taken the position that it does not object to the withdrawal of the guilty plea.

United States v. Santos, 278 F. Supp. 2d 143 (D. P.R. 2003) -- a case with very similar factual circumstances -- is illustrative. In *Santos*, three defendants were permitted to withdraw their guilty pleas in large part because the government dismissed charges against several other similarly situated individuals. As to one of the defendants, the Court noted that the government -- as is the case here -- did not oppose her motion to withdraw a previously submitted guilty plea. That alone provided sufficient ground to grant the motion. *Id.* at 145. Even as to the two other defendants, whose pleas the government opposed withdrawal, the Court nevertheless granted the motions based on the fact that the government had changed its position toward the indicted individuals following a review of certain trial testimony in the case. In allowing withdrawal of those pleas, the Court noted its obligation to "apply the law in an evenhanded manner." *Id.*

CONCLUSION

For all of the foregoing reasons, defendant Christopher Williams respectfully requests that this Court enter an order permitting him to withdraw his previously entered plea of guilty. pursuant to Federal Rule of Criminal Procedure 11(d)(2)(B).

Dated: New York, New York
May 6, 2009

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